CIVIL WRIT JURISDICTION CASE No.801 OF 1991

In the matter of an application under Article 226 of the Constitution of India.

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1. Daroga Chaudhary, son of Pyare Chaudhary.

2. Manoj Kumar, son of Daroga Chaudhary.

Both residents of Mauza Bujurg, P.S. Patepur,

District – Vaishali.

3. Lakhan Rai, son of Ganga Rai, resident of Mauza Lakhnipur,

P S – Patepur, District – Vaishali.

---------- Petitioners

Versus

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1. The Collector, Vaishali at Hajipur, District – Vaishali.

2. The Consolidation Officer, Patepur, District – Vaishali.

3. Chandra Shekhar Rai, son of Surendra Rai.

4. Smt. Banarsi Devi, wife of Surendra Rai

Nos. 3 and 4 residents of Village – Maudah Dih, P.S.

Patepur, District – Vaishali.

---------- Respondents

For the petitioners : Mr. Shrinandan Pd Singh

For the State : Mr. Anil Kumar Verma, JC to SC 3.

P R E S E N T

THE HON`BLE MR. JUSTICE AJAY KUMAR TRIPATHI

A K Tripathi,J. The short submission made by the learned counsel for the

petitioners against the impugned order contained in annexure-2 is that the exercise of power under section 32 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act is erroneous because the Collector has himself recorded that there is no clear finding or statement as to when statement of principles was published or was published at all when instrument in question came to be executed. In absence of clear finding in this regard the question of breach of section 5 of the Act does not arise.

2. Perusal of the impugned order does indicate that there is no clear-cut finding recorded by the Collector with regard to any publication of the statement of principles. In that view of the matter it is difficult to sustain the impugned order.

3. The writ application is allowed. The order dated 28.2.1990 contained in annexure-2 is quashed.

(Ajay Kumar Tripathi, J)

Patna High Court:
The 12th December, 2008.
(NAFR) R K Pathak.

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